

BEFORE THE  
DENTAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement of:

Case No. AGS 1999-26  
OAH No: 2012061250

JEFFREY MARC FLANZER,

Respondent.

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Dental Board of California, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on February 27, 2013.

IT IS SO ORDERED January 28, 2013.



Huong N. Le, DDS, Board President  
Dental Board of California  
Department of Consumer Affairs

BEFORE THE  
DENTAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement of:

JEFFERY MARC FLANZER,

Dentist License No. 37821,

Respondent.

Agency Case No. AGS-1999-26

OAH Case No. 2012061250

**PROPOSED DECISION**

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on December 17, 2012, in Los Angeles, California.

Jeffrey Marc Flanzer (Petitioner) represented himself.

Zachary T. Fanselow, Deputy Attorney General, represented the Attorney General of the State of California, pursuant to Government Code section 11522.

The parties submitted the matter for decision on December 17, 2012.

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**FACTUAL FINDINGS**

1. Petitioner filed the Petition for Reinstatement on or about October 6, 2011.
2. The Dental Board of California (Board) issued dentist license number 37821 to Petitioner on October 13, 1989.
3. In 1999, the Board's then-executive director filed an Accusation and a Supplemental Accusation against Petitioner seeking the revocation of Petitioner's dentist license for incompetence, gross negligence, repeated acts of negligence, and unprofessional conduct as to two patients. The allegations were that, in 1998, Petitioner misrepresented each patient's dental conditions and recommended excessive treatment. Specifically, Petitioner told patient L.B. that she needed new fillings on two teeth, larger new fillings involving additional teeth surfaces on three existing fillings, three crowns on three other

teeth, and root planing. Petitioner told the second patient, D.B., that he needed to replace existing fillings, additional treatment on existing one-surface fillings as to four teeth, larger two-surface fillings on three other teeth, and root planing.

4. In April 2000, Petitioner and the Board's then-executive director entered into a settlement. In a Stipulated Settlement and Order, effective June 12, 2000, Petitioner admitted that the charges, if proven, would constitute cause for imposing discipline on Petitioner's license. Petitioner agreed to the Board's discipline. The Board revoked Petitioner's dentist license, stayed the revocation, and placed the license on five years probation with various terms and conditions that included, among other terms, a 30-day suspension and a requirement that Petitioner pay \$3,000 in investigative and prosecutorial costs. The Settlement stated, "[Petitioner] admits that he is not now actively practicing dentistry and agrees that he shall not practice dentistry until he notifies the . . . Board . . . of his desire to commence practice, provides information requested by the Board pertaining to the nature and extent of such practice, and receives permission from the Board to commence practicing dentistry in accordance with limitations and restrictions as may be imposed by the Board . . . ."

5. Petitioner has not practiced dentistry since 1999, the approximate time the Accusation was filed. According to the Board's records, "Dental license #37821 is cancelled and expired on April 30, 2001."

6. Regarding the misconduct at issue in the underlying Accusation, Petitioner denies that he misrepresented either patient's dental conditions or that he recommended excessive treatments. He maintains that his actions were proper. If faced with the same facts today, as presented in 1998, he would make the same representations and recommend the same treatment to each patient.

7. Petitioner explained that at the time he signed the Stipulated Settlement, he did not have the financial means to pursue an administrative hearing. If presented with that opportunity now, Petitioner asserted that he would defend himself in a hearing.

8. Currently and since approximately 2005, Petitioner has sold insurance as an insurance agent. Since January 2012, he has become involved in a start-up internet company. The evidence did not describe the company's purpose.

9. To date, Petitioner has not paid the \$3,000 in costs he owes to the Board; however, at hearing, Petitioner asserted that he was taking steps to begin making payments.

10. In 2011, Petitioner completed 73 units of continuing education courses. Those courses included the following subject matters, among others: the dental practice act, ethical decision making in dental practice, and dental ethics.

11. During his time of non-practice, and apart from his insurance work, Petitioner was acting as conservator for his father prior to his father's death.



12. Petitioner wants to practice dentistry in a group clinical environment.

13. Jeffrey C. Sanacore, D.D.S., wrote a letter, dated January 31, 2011, in support of Petitioner. Sanacore asserted in his letter that he has known Petitioner for 15 years and that he and Petitioner “worked together for sometime in the same dental office.” Sanacore further asserted that Petitioner was “without a doubt the best technical dentist I have come across in my nineteen years of practicing.” At hearing, Petitioner estimated that he last interacted with Sanacore as a dentist in approximately 1995.

14. Vaughn G. Stewart, D.D.S., wrote a letter, dated December 7, 2010, in support of Petitioner. Stewart stated in his letter that he has known Petitioner for 12 years and that Petitioner was employed at Stewart’s office for about two years in the late 1990s. He described Petitioner as a “very good employee,” “reliable and diligent,” and an excellent clinician. Stewart’s letter was originally intended to support Petitioner’s application for post-doctoral work, but in his letter, Stewart reasserted his opinions of Petitioner as of March 17, 2011. Petitioner explained that Stewart did so in support of the instant Petition.

#### LEGAL CONCLUSIONSd

1. The standard of proof in this matter is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1092; *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.) Petitioner bears the burden of proof. (*Ibid.*)

2. Business and Professions Code section 1670 provides that the Board may discipline a dentist license.

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~~3. Business and Professions Code section 1686 provides that where the Board~~  
has revoked a license, the affected licensee may petition for reinstatement after three years have passed since the effective date of the revocation. The Legislature provides that the administrative law judge hearing such petitions “may consider (1) all activities of the petitioner since the disciplinary action was taken, (2) the offense for which the petitioner was disciplined, (3) the petitioner’s activities during the time the license, certificate, or permit was in good standing, and (4) the petitioner’s rehabilitative efforts, general reputation for truth, and professional ability.”

4. Pursuant to the California Code of Regulations, title 16, section 1020, subdivisions (c) and (d), the following criteria of rehabilitation are relevant to the instant analysis: “(1) The nature and severity of the act(s) or offense(s) . . . (3) The time that has elapsed since commission of the act(s) or offense(s); (4) Whether the licensee has complied with any terms of . . . probation . . . lawfully imposed against the licensee . . . [and] (6) Evidence, if any of rehabilitation submitted by the licensee.

5. The original misconduct is of sufficient concern that Petitioner must establish, by clear and convincing evidence, that if licensed, the public welfare would be safeguarded. (Cal. Code Regs., tit. 16, § 1020, subd. (c)(1).) Fourteen years have passed since the misconduct occurred; significant time has passed. (Cal. Code Regs., tit. 16, § 1020, subd. (c)(3).) However, the mere passage of time alone is inadequate evidence to establish rehabilitation sufficient to warrant the reinstatement of Petitioner's dentist license. This is particularly salient here, where Petitioner maintains his underlying actions were proper and he would make the same representations and treatment recommendations as he did in 1998. Petitioner may rightfully adhere to his position that his underlying actions as a licensed dentist were appropriate; he need not "perform an artificial act of contrition." (*Hall v. Committee of Bar Examiners* (1979) 25 Cal.3d 730, 745.) However, Petitioner agreed to the Board's license discipline and allowed his license to lapse. He cannot litigate the matter now. Petitioner's actions with regard to patients L.B. and D.B. in 1998 constituted misconduct that warranted a five-year probationary period and a 30-day suspension. Within this context, Petitioner must establish that, if licensed today, the public would be safe. Given that he would repeat those actions that caused the Board concern, the evidence of Petitioner's rehabilitation is wholly inadequate to meet his burden.

6. Cause does not exist to grant Petitioner's Petition for Reinstatement, pursuant to Business and Professions Code section 1686, as set forth in Factual Findings 1-14, and Legal Conclusions 1-5.

#### ORDER

Petitioner Jeffrey Marc Flanzer's Petition for Reinstatement of dentist license number 37821 is denied.

Dated: January 9, 2013



DANIEL JUAREZ  
Administrative Law Judge  
Office of Administrative Hearings